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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Concluding observations on the combined sixth and seventh periodic reports of Togo

Addendum

Information received from Togo on follow-up to the concluding observations*

[Date received: 9 June 2015]

Note: The present document is being distributed in English, Spanish and French only.
* The present document is being issued without formal editing.

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Paragraph No. 15

Recommendation (a) Accelerate the finalization and adoption, within a clear and precise time frame and without delay, of law reform to bring domestic provisions into line with the Convention.

Response (a)

1. With respect to this recommendation, it is noteworthy that after the presentation of the combined 6th and 7th periodic reports in October 2012, the Government of Togo has continued legislative reforms in order to align the provisions of domestic law with the Convention. These took the form of several enactments, including the following:

- Act No. 2013-002 of 21 January 2013 on the bylaws of the Togolese public service;
- Act No. 2012-002 of 29 May 2012, as amended by Act No. 2013-004 of 19 February 2013 and Act No. 2013-008 of 22 March 2013, on the Electoral Code;
- Act No. 2013-010 of 27 May 2013 on legal aid in Togo;
- Act No. 2014-019 of 17 November 2014 amending articles 99, 100, 153, 403, 404, 419 and 420 of Act No. 2012-014 of 6 July 2012 establishing the Persons and Family Code;
- the bill on the Penal Code and Code of Criminal Procedure.

Recommendation (b) Ensure that all discriminatory provisions are reviewed and repealed, including those in the Penal Code, the Persons and Family Code, the Nationality Code and the Code of Criminal Procedure, in order to achieve de jure equality and enable de facto equality for women in compliance with the State party's obligations under the Convention.

Response (b)

2. The legislative reforms undertaken enabled certain discriminatory provisions of previous enactments to be repealed.

The Persons and Family Code (CPF), revised in 2012 and amended in 2014.

3. Under Act No. 2014-019 of 17 November 2014, the Persons and Family Code, revised in 2012, underwent further amendments to certain of its articles, including 99, 100, 153, 403, 404, 419 and 420. It grants women a set of rights that ensure them a certain protection, fulfilment and equality with men. Among those rights are:

- Equality between spouses. Spouses can thus jointly assume moral and material responsibility in the common interest of the household and the children (article 99). The husband is no longer, as in the 2012 Code, the sole head of the household);
- The husband and wife have the obligation to contribute to household expenses in proportion to their respective abilities; failure to do so may justify legal constraint against either the husband or the wife (article 100);
- Neither spouse may represent the other in the event of legal separation (article 153);

- The wife is protected in the event of dissolution of the marriage: strict regulation of the effects of dissolution of the marriage, especially through death, henceforth shelters the wife from the recriminations of her in-laws;
- Customary law is established as the exception with respect to inheritance, provided it is in keeping with human rights and the fundamental principles of the Constitution (article 403);
- Where the option to apply customary law is invoked in cases of inheritance, the spouses are obliged to so declare before the civil status officer. That declaration must be made on the marriage certificate and as a marginal note on both spouses' birth certificates (article 404);
- Gender is taken into account in the various lines of succession (articles 419, 420).

The Electoral Code

4. New provisions have been added to the Electoral Code, in particular articles 220 and 225:

- Article 220 calls on political parties and legally established groups of political parties, as well as individuals, to enforce gender equality in candidate lists for legislative elections as of July 2013;
- Article 225 cuts the electoral deposit for female candidates in half, to encourage Togolese women to be much better represented within the National Assembly.

The Legal Aid Act

5. Act No. 2013 010 of 27 May 2013 on legal aid in Togo protects vulnerable persons, mainly women, from violence. Its enforcement facilitates needy women's access to legal services.

Act No. 002/PR of 21 January 2013 on the bylaws of the Togolese public service calls for fair access for men and women to all public offices;

The Nationality Code

6. As regards the Nationality Code, it should be emphasized that women's right to confer Togolese nationality on their foreign-national spouses is not yet recognized.

7. The loss of Togolese nationality by foreign women upon their divorce is thrown into doubt by the new Persons and Family Code, which stipulates in its article 149 that "Divorce has no effect on the rights acquired by the husband or wife to Togolese nationality. It does not, on its own, imply the forfeiture of nationality, which can only occur as a result of a judge's decision."

8. Measures are being taken by the Government to repeal the discriminatory provisions on nationality to which women are subject.

9. The Togolese nationality code is currently under revision, and an advance draft is under discussion by the competent bodies.

10. The draft Penal Code now in course of enactment devotes a paragraph to the elimination of gender-based violence.

Paragraph No. 21

Recommendation (a): Put in place, without delay, a comprehensive strategy with a results-oriented approach, in conformity with articles 2(f) and 5(a) of the Convention, to eliminate stereotypes and harmful practices that discriminate against women, such as polygamy, pre-marriage, forced and early marriage, widowhood practices, levirate, sororate, female genital mutilation, denial of inheritance rights to women, bondage of young girls in voodoo convents and violence against children or old women believed to be witches. Such measures should include concerted efforts, within a clear time frame and with civil society, the school system, the media and traditional leaders, to educate and raise awareness about this subject, targeting women and men at all levels of society.

Response (a)

11. In accordance with articles 2(f) and article 5(a) of the Convention, Togo has taken legislative, regulatory and programme measures aimed at eliminating discriminatory stereotypes and unsafe practices affecting women.

12. The Persons and Family Code revised in 2012 and amended in 2014 guarantees women broad protection and confers many rights on them;

- While the Code recognizes polygamy and monogamy, it should be noted that monogamy is the form of marriage under ordinary law (article 42 of the Code);

- With respect to pre-marriage and forced or early marriage, the Persons and Family Code and the Children's Code prohibit child marriage: "Men and women freely choose their partners and marriage cannot be contracted without their full and free consent.

13. No man or woman aged less than eighteen (18) years may contract marriage" (CPF article 43).

"The marriage of children is unlawful. The marriageable age is set at eighteen (18) years" (Children's Code article 267).

14. Nevertheless, the president of the court or the judge for matrimonial affairs of the place where the marriage is solemnized may waive the minimum age requirement for valid reasons, such waiver not being possible under any circumstances for a man or woman less than sixteen (16) years of age.

15. Under these provisions, any pre-marriage or early or forced marriage is unlawful.

- Widowhood practices, levirate and sororate are prohibited under the Persons and Family Code. The surviving spouse has the right to refuse to submit to degrading mourning rites or such as would wound his or her dignity, even where such rites are customary for the heirs of the deceased (article 411).

16. Levirate, sororate and degrading inhuman confinement are prohibited (article 411 *in fine*).

- Female genital mutilation has much decreased since the adoption of Act No. 98-016 of 17 November 1998 on the prohibition of female genital mutilation in Togo, and especially thanks to the Act's broad dissemination and

the concerted grassroots awareness actions being taken by government, civil society and other development partners. From 2006 to 2010 the incidence of female genital mutilation fell from 6.9% to 3.9% among women and from 1% to 0.04% among children.

- As regards the denial of women's inheritance rights, it should be noted that the Act grants the same rights to men and women. To inherit, a person must exist at the time the inheritance documents are opened. An unborn child is an heir (article 408). The child, whatever its sex (boy or girl), shall inherit from its father and mother without any discrimination.

- As regards the bondage of young girls in voodoo convents and violence against children or old women believed to be witches, a sustained commitment has been obtained from the guardians of customary practices: the Notsè declaration of 14 June 2013, which is an undertaking by the traditional chiefs and religious leaders of Togo to combat practices harmful to children in their respective communities. The declaration commits the stakeholders themselves to that combat. It also contributes to the eradication of certain forms of violation of children's rights (infanticide, early marriage, placement of children in convents and the phenomenon of so-called "child witches") that prevent children, chiefly girls, from continuing their studies.

17. Various programmes are being implemented by the Government, in collaboration with its partners, to combat all forms of violence against girls and women. These include:

- religious and traditional arguments against gender-based violence;
- a national programme to combat violence against girls and women;
- a national programme to combat pregnancy and marriages among teenage girls, within and without the school environment;
- coverage of issues related to violence against girls and women in education and training programmes.

Recommendation (b): Include in the revised Penal Code provisions prohibiting polygamy, pre-marriage, forced and early marriage, widowhood practices, levirate, sororate, bondage, female genital mutilation and denial of inheritance rights to women, and provide adequate sanctions.

Response (b)

18. Revision of the Penal Code is under way, and is now at the draft stage. The draft Code provides for appropriate sanctions for any form of gender-based violence and violence against women and girls as defined and recognized by both national and international enactments.

Recommendation (c): Undertake an assessment of the impact of those measures in order to identify shortcomings and improve them accordingly within a clear time frame.

Response (c)

19. As regards violence against women and girls in all its forms, it should be noted that encouraging progress has been made, especially in terms of female

genital mutilation, the incidence of which fell between 2006 and 2010 from 6.9% to 3.9% in women and from 1% to 0.04% in children.

The undertaking of the traditional chiefs and religious leaders of Togo in the so-called Notsè declaration in June 2013 has contributed to better protection for children and respect for their fundamental rights in communities; and to the revision of harmful practices in favour of socializing practices that are conducive to children's harmonious development and lessen the risks of non-enrolment in school or dropping out for all children, but especially girls. Moreover, the practical implementation the various programmes to benefit women and girls and the eradication of sociocultural pressures have led to a significant decrease in violence against women and girls.